



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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BUSINESS AND OCCUPATION TAX: MEANING OF "PERSON" ENGAGING IN TAXABLE BUSINESS

Issued May 14, 1971

Where individuals engaged in separate businesses join together in partnership to purchase and hold equipment for their joint use, do they constitute a new and separate taxable entity?

Taxpayer was a partnership constituted of several weekly newspaper publishers for the purpose of jointly owning and operating certain copy equipment. Taxpayer objected to the imposition of business and occupation tax on grounds that it did not constitute a separate entity from its individual members, nor did it engage in an income producing business.

RCW 82.04.030 defines "person" to mean:

. . . any . . . copartnership . . . or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise . . .

RCW 82.04.140 defines "business" to include:

. . . all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

The department held that the taxpayer was "a group of individuals acting as a unit," engaged in activities which resulted in direct gain.

Though taxpayer showed no profits, the measure of the business and occupation tax (RCW 82.04.080) includes all income whether covering only costs of operation or even if resulting in losses.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

Please direct comments to:
Department of Revenue
Legislation & Policy Division
P O Box 47467
Olympia, Washington 98504-7467
(360) 753-4161 eta@DOR.wa.gov

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